

AMENDED IN ASSEMBLY JUNE 28, 2009

AMENDED IN ASSEMBLY JUNE 16, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

Assembly Constitutional Amendment

No. 13

Introduced by Assembly Member Hernandez
(Coauthor: Assembly Member Adams)

February 27, 2009

Assembly Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 8 of Article II thereof, relating to initiatives.

LEGISLATIVE COUNSEL’S DIGEST

ACA 13, as amended, Hernandez. Initiatives.

The California Constitution provides voters, through the initiative, the power to propose statutes and constitutional amendments and to adopt or reject them. An initiative measure may be proposed by presenting the Secretary of State a certified petition signed by electors equal in number to 5% in the case of a proposed statute, and 8% in the case of a proposed constitutional amendment, of the votes for all candidates for Governor at the last gubernatorial election. The Secretary of State is required to submit an initiative measure at the next general election held at least 131 days after it qualifies or at a special statewide election held prior to that general election.

This measure would require the Secretary of State, upon being presented with a petition for an initiative measure, to immediately transmit the initiative measure to the Legislature. Upon transmittal to the Legislature, the initiative measure would be assigned to the

appropriate committees of each house for analysis and public hearings and, by concurrent resolution, the Legislature could amend the initiative measure in a manner consistent with the intent of the *initiative measure if the proponent of the initiative measure accepts the amendments of the Legislature*. The measure would provide that an initiative measure could be returned to the Secretary of State for placement on the ballot pursuant to the Legislature's adoption of a concurrent resolution by a majority vote in each house in the case of a statute, or a $\frac{2}{3}$ vote in each house in the case of a constitutional amendment.

This measure would also provide that an initiative measure that only proposes a statute may be introduced as a bill and, if it is enacted and the proponent of the initiative measure accepts any amendments by the Legislature, the initiative measure would not be submitted to the voters.

This measure would require, if the Legislature returns the initiative measure to the Secretary of State within 30 legislative session days, as defined, and if the initiative measure is certified to have been signed by the requisite number of electors, that the initiative measure, including any proposed amendment by the Legislature, be submitted at the next general election that is at least 131 days after the date the initiative measure is returned or at any special statewide election held prior to that general election.

This measure would provide, alternatively, if the Legislature does not return the initiative measure by that deadline, that the Secretary of State place the initiative measure on the ballot only if the initiative measure is certified, after the deadline, to have been signed by electors equal in number to 10% in the case of a proposed statute, and 16% in the case of a proposed constitutional amendment, of the votes for all candidates for Governor at the last gubernatorial election. The measure would specify that an opportunity be provided after that deadline, as specified by statute, for the gathering of additional signatures for this purpose.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Assembly, the Senate concurring,* That the
- 2 Legislature of the State of California at its 2009–10 Regular
- 3 Session commencing on the first day of December 2008, two-thirds
- 4 of the membership of each house concurring, hereby proposes to
- 5 the people of the State of California that the Constitution of the
- 6 State be amended as follows:

1 That Section 8 of Article II thereof is amended to read:

2 SEC. 8. (a) The initiative is the power of the electors to
3 propose statutes and amendments to the Constitution and to adopt
4 or reject them.

5 (b) An initiative measure may be proposed by presenting to the
6 Secretary of State a petition that sets forth the text of the proposed
7 statute or amendment to the Constitution and is certified to have
8 been signed by electors equal in number to 5 percent in the case
9 of a statute, and 8 percent in the case of an amendment to the
10 Constitution, of the votes for all candidates for Governor at the
11 last gubernatorial election.

12 (c) Upon presentation of a petition to the Secretary of State
13 pursuant to subdivision (b), the Secretary of State immediately
14 shall transmit the initiative measure to the Legislature prior to
15 certification of the signatures of electors. The measure shall be
16 assigned to the appropriate committees in the Senate and Assembly
17 for analysis. Within 20 legislative session days after transmittal
18 of the measure to the Legislature, the appropriate committees of
19 the Senate and Assembly shall commence joint public hearings
20 on the subject of the measure. The Legislature at any time may,
21 by concurrent resolution, amend the measure in a manner consistent
22 with the intent of the measure *if the proponent of the measure*
23 *accepts the amendments of the Legislature*. If the measure only
24 proposes a statute, it may be returned to the Secretary of State
25 pursuant to subdivision (e) only by a concurrent resolution adopted
26 by the Legislature, a majority of the membership of each house
27 concurring. If the measure proposes an amendment to the
28 Constitution, it may be returned to the Secretary of State *pursuant*
29 *to subdivision (e)* only by a concurrent resolution adopted by the
30 Legislature, two-thirds of the membership of each house
31 concurring.

32 (d) An initiative measure transmitted to the Legislature pursuant
33 to subdivision (c) that only proposes a statute may be introduced
34 in the Legislature as a bill. If the bill is enacted as a statute and the
35 proponent of the initiative measure accepts any amendments of
36 the Legislature, and so informs the Secretary of State, the initiative
37 measure shall not be submitted to the electors.

38 (e) If the Legislature returns the initiative measure to the
39 Secretary of State within 30 legislative session days after the
40 measure is transmitted to the Legislature, and the measure is

1 certified to have been signed by the requisite number of electors
2 pursuant to subdivision (b), the Secretary of State shall submit the
3 measure, including any proposed amendment, at the next general
4 election held at least 131 days after it is returned to the Secretary
5 of State or at any special statewide election held prior to that
6 general election. The Governor may call a special statewide
7 election for the measure.

8 (f) If the Legislature does not return the initiative measure to
9 the Secretary of State within 30 legislative session days after the
10 measure is transmitted to the Legislature, the Secretary of State
11 shall submit the measure to the electors only if the measure is
12 certified, on or after that deadline, to have been signed by electors
13 equal in number to 10 percent in the case of a statute, and 16
14 percent in the case of an amendment to the Constitution, of the
15 votes for all candidates for Governor at the last gubernatorial
16 election. The proponents of the initiative measure shall be provided
17 the opportunity subsequent to that deadline, as specified by statute,
18 to gather signatures of electors for the purposes of this subdivision.
19 The Secretary of State shall submit the measure at the next general
20 election or at any special statewide election held prior to that
21 general election that is at least 131 days after the date of
22 certification pursuant to this subdivision. The Governor may call
23 a special statewide election for the measure.

24 (g) An initiative measure embracing more than one subject may
25 not be submitted to the electors or have any effect.

26 (h) An initiative measure may not include or exclude any
27 political subdivision of the State from the application or effect of
28 its provisions based upon approval or disapproval of the initiative
29 measure, or based upon the casting of a specified percentage of
30 votes in favor of the measure, by the electors of that political
31 subdivision.

32 (i) An initiative measure may not contain alternative or
33 cumulative provisions wherein one or more of those provisions
34 would become law depending upon the casting of a specified
35 percentage of votes for or against the measure.

36 (j) For purpose of this section, "legislative session day" means
37 a day on which the Members of both houses of the Legislature are
38 required to be in Sacramento to attend a session of the Legislature.

O